

House Research Act Summary

CHAPTER: 60

SESSION: 2015 Regular Session

TOPIC: Autopsies; religious objections

Analyst: Mary Mullen

Date: May 28, 2015

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

This act creates a requirement for coroners and medical examiners to notify families that they plan to perform an autopsy and provides an exemption to current law which allows families of deceased individuals to raise an objection to an autopsy based on religious beliefs under certain circumstances.

Section

- 1** **Communication with family during a death investigation.** Requires coroners or medical examiners to have a policy about how to communicate with families during the investigation of a death by July 1, 2015.
- 2** **Reports of death.** Provides that the current law on the determination of an investigation, including an autopsy, that is done by a coroner or medical examiner is subject to a religious exemption. The new religious exemption is found in section 4 of this act, Minnesota Statutes, section 390.11, subdivision 2b.
- 3** **Autopsies.** Provides that the current law on the determination to perform an autopsy, including various testing and tissue samples, is subject to the religious exemption created in section 4 of this act, Minnesota Statutes, section 390.11, subdivision 2b.
- 4** **Religious objections to autopsy.** Paragraph (a) provides the definitions that are used in this section.

Paragraphs (b) and (c) create a requirement that a coroner or medical examiner must make a good-faith effort to provide notice to the surviving relatives of the decedent within 24 hours of discovery of the body. Information related to their right to object to the testing or autopsy based on religious grounds must be in the notice or the relative must be provided with the website that has that information. This section also allows the coroner or medical examiner

Section

to do the autopsy if no family member can be located and requires the coroner or medical examiner to keep a record of any communication with the family.

Paragraph (d) provides that the coroner or medical examiner cannot do the autopsy or testing unless a compelling state interest exists.

Paragraphs (e), (f), and (g), allow the coroner or medical examiner to proceed with the autopsy once they have determined that a compelling state interest exists and the 24 hour notice period has passed. The medical examiner or coroner may seek a court order to proceed immediately if the delay would threaten the accuracy of the autopsy or threaten the public health. The compelling state interest is defined as any of the following:

- the autopsy is necessary to investigate a suspected crime or suspicious death
- the autopsy is necessary to discover the cause of death to meet immediate threats to public health or after an unexpected death to protect the public's health
- the death is the unexpected and unexplained death of a child
- the autopsy is necessary to obtain proper toxicological or specimen reports for evidence of a crime that could deteriorate over time
- the death is associated with police action
- the death is an unnatural, unattended, or unexpected death in a corrections facility; secured treatment facility; hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; a home care provider licensed or required to be licensed under section 144A.46; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659, but these exclude deaths that occur the decedent's home or the home of their caregiver
- the death is due to workplace injury
- the death is caused by electrocution or drowning
- the decedent is unidentified and the autopsy will help identify the body
- the body is skeletonized but not believed to be more than 50 years old
- the death appears to be caused by fire or explosion
- it is demonstrated by a preponderance of the evidence in a court of law that the autopsy is necessary and that the state's interest in preforming the autopsy outweighs the interest in observing the decedent's religious beliefs

In cases where the coroner or medical examiner has tried to prove in court that there is a compelling interest to perform the autopsy where the state's interest is greater than the interest of observing the decedent's religious beliefs, and the coroner or medical examiner is not able to prove that, then the body must be immediately returned to the family.

Section

Paragraph (h) provides that the coroner or medical examiner can do an autopsy over the objection of a family member when a compelling state interest exists however the autopsy must be the least intrusive procedure possible to achieve the state's goals but does not prohibit the coroner or medical examiner from obtaining permission to perform tests with the voluntary permission of the family members.

Paragraph (i) removes liability from the coroner or medical examiner for the failure to perform an autopsy where one has not been done due to the objection of the family on religious grounds.

Paragraph (j) provides data practices provisions and allows for data to be filed privately, under the seal of the court, so that the investigative data can remain inaccessible.

Paragraph (k) provides that the determinations made in this section are not subject to the Administrative Procedures Act.

5 Autopsies. Provides that the current law on the determination of an investigation by a sheriff into certain violent deaths that result in an autopsy by a coroner or medical examiner is subject to the provisions in section 4 of this act, Minnesota Statutes, section 390.11, subdivision 2b.

6 Other deaths; autopsies; exhumation consent. This section clarifies that for an autopsy or exhumation of a body that is either being cremated or who died in a public institution the coroner or medical examiner are subject to the provisions in section 4 of this act, Minnesota Statutes, section 390.11, subdivision 2b.